IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 653 OF 2004

Smt. Nagvekar Pramodini Digambar now
Smt. Mansi Vijay Karekar ...Petitioner

Versus

President/Secretary,
Pradnya Prabodhan Sanstha & Ors. ...Respondents

Mr. Shaikh Nasir Masih for the petitioner.
Mr. P.S. Gole for respondent Nos. 1 and 2.
Mr. M.D. Naik, Assistant Government Pleader for respondent No.3.
Respondent No.3 present.

CORAM: **DALVEER BHANDARI, C.J.** &
DR. D.Y. CHANDRACHUD,J.

DATE: AUGUST 26, 2004.

P.C.

This petition is filed by Smt. Nagvekar Pramodini Digambar, a Drawing Teacher, working with respondent No.2 school.

2. The petitioner, being aggrieved by the order of termination passed by the respondent-school, had preferred an appeal before the Presiding Officer, School Tribunal, Gr. Bombay, being Appeal No. BOM/5/1996. The Presiding Officer, while allowing the appeal of the

petitioner, has come to the conclusion that the appellant is a qualified teacher for the subject of drawing. The Tribunal observed as follows:

> "Schedule "B" in M.E. P.S. Rule, 1981 provides the requisite qualifications for trained teachers in secondary schools. Schedule "B" part 2 Clause 3 is meant for Drawing Teachers. It provides that Drawing Teachers or Drawing Masters certificate or Art Teachers Diploma or Art Masters certificate or Art Masters Diploma is the requisite qualification for Drawing Teacher. The Appellant is holder of Art Teachers Diploma of 1989. Thus as per Schedule "B" (ii) (3) of M.E.P.S. Rules, 1981 the appellant is a qualified teacher for the subject of drawing".

3. The Tribunal also directed the respondent-management to reinstate the petitioner as Assistant Teacher for Drawing subject with continuity of service and full back wages.

4. The order of the Tribunal was challenged by the respondents in Review Petition No.3 of 2000. The review petition was rejected by the Presiding Officer, School Tribunal, Mumbai Region, Mumbai, on 7th March, 2002. Thus the order of the School Tribunal dated 30th June, 1997, has attained finality.

5. It may be pertinent to mention that the learned single Judge by his order dated 12th August, 2003, observed that the petitioner, who was personally present in Court, had given up the claim for back wages and to that extent the order of the Tribunal was modified by the learned single Judge. Before the learned single Judge, the management had undertaken to forthwith pay all the amounts due and payable to the petitioner from the date of reinstatement, if outstanding. It is unfortunate that despite undertaking and judgment of the School Tribunal, against which review petition preferred by the management was dismissed, even then till date, the petitioner has not been paid the amount of a regular drawing teacher from 10th January, 1998. The petitioner is entitled to the amount in terms of the order of the School Tribunal. Neither the Government nor the management had preferred any writ petition or adopted any other proceedings against the order of the School Tribunal.

6. By our order dated August 16, 2004, we directed the Education Inspector, respondent No.3, to carry out the entire calculation in accordance with the directions given by the School Tribunal. The Education Inspector, Mumbai (West) has carried out the entire

calculation and according to the calculation, the amount due and payable from January, 1998 to December, 2004 is Rs.6,99,286/-. The petitioner did not dispute this amount. During the interregnum period, the petitioner has been paid Rs.75,495/- on 18th September, 2003. The respondent would be entitled to adjust the amount already paid to the petitioner and remaining amount would be paid within four weeks from today. It is made clear that the respondents would be jointly and severally liable to pay this amount to the petitioner.

7. The Writ Petition is accordingly disposed of.

8. If the amount, as directed above, is not paid within four weeks, the petition shall be again listed for further directions and the Deputy Director of Education shall remain present in Court. A compliance report be filed by the petitioner with the Registry.

9. The parties be supplied authenticated copies.

CHIEF JUSTICE

DR. D.Y. CHANDRACHUD, J.